



# City of Chula Vista

## Staff Report

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**File#:** 16-0282, **Item#:** 10.

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CONSIDERATION OF NEXT STEPS IN THE FORMAL PROCEEDINGS FOR A PUBLIC HEARING AND ELECTION TO LEVY SPECIAL TAXES WITHIN OTAY RANCH VILLAGE 3 FOR INCLUSION INTO CFD 97-2

- A. RESOLUTION NO. 2016-144 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), MAKING CERTAIN DETERMINATIONS AND AUTHORIZING SUBMITTAL OF LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF CERTAIN TERRITORY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT) AND IMPROVEMENT AREA "C" THERETO
- B. RESOLUTION NO. 2016-145 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), DECLARING THE RESULTS OF A SPECIAL ELECTION IN THAT TERRITORY DESIGNATED AS COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), IMPROVEMENT AREA "C," ANNEXATION NO. 10, AND ADDING SUCH TERRITORY TO SUCH IMPROVEMENT AREA

### RECOMMENDED ACTION

Council conduct the public hearing and adopt the resolutions.

### SUMMARY

The owner of Otay Ranch Village 3, Homefed Village III LLC, has requested that the City conduct proceedings to establish a perpetual funding mechanism for their share of the Otay Ranch Preserve in conformance with development requirements. On May 24, 2016, the City Council initiated the Community Facilities District No. 97-2 (Preserve Maintenance District) ("CFD No. 97-2") annexation proceedings by adoption of Resolutions 2016-094 and 2016-095. Tonight's actions are the next steps in the formal proceedings to annex the territory within Otay Ranch Village 3 into CFD No. 97-2 and Improvement Area C thereof: (a) conducting a public hearing pertaining to the proposed annexation and (b) immediately following such public hearing, conducting an election of the qualified electors regarding the authorization to levy special taxes within Otay Ranch Village 3 and, following the canvass of the ballots received, declaring the results of such election.

Special taxes levied within Improvement Area C fund the costs of the Resource Monitoring Program as well as Preserve Operations and Maintenance consistent with the requirements of the Otay Ranch Resource Management Plan Phases I and II, plus a pro-rata share of Administrative Expenses of CFD No. 97-2. The City has retained the services of Willdan Financial Services as special tax consultant and Best, Best and Krieger LLP as legal counsel to provide assistance during the

proceedings. Tonight's action will complete the formal proceedings to annex Otay Ranch Village 3 to CFD No. 97-2 and Improvement Area C thereof. See Attachment 1 for the Annexation Map.

## **ENVIRONMENTAL REVIEW**

### **Environmental Notice**

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

### **Environmental Determination**

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the proposed activity consists of the creation of a governmental fiscal/funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

## **BOARD/COMMISSION RECOMMENDATION**

Not applicable.

## **DISCUSSION**

In July 1998, Council formed CFD No. 97-2 (Preserve Maintenance District). CFD 97-2 was originally divided into two Improvement Areas: A and B. Improvement Area A was intended to fund the costs of the Resource Monitoring Program as well as the Preserve Operations and Maintenance within the boundaries of the Otay Ranch Preserve. Improvement Area B was intended to fund only the Resource Monitoring Program within that same area. Both these improvement areas were established prior to the creation of Multiple Species Conservation Program ("MSCP") which developed better budgets for monitoring and maintenance of preserve areas. Improvement Area C was therefore formed in 2003, in conjunction with the annexation of Brookfield Shea Otay Village Eleven into CFD 97-2, and funds both the Resource Monitoring Program and Preserve Operations and Maintenance consistent with the requirements of the Otay Ranch Resource Management Plan Phases I & II and the MSCP. All annexations into CFD 97-2 since 2003 are into Improvement Area C.

### **Territory Proposed to be Annexed**

The boundaries of the territory proposed to be annexed to Improvement Area C of CFD No. 97-2 encompass the parcels located within the Otay Ranch known as Village 3. Otay Ranch Village 3 is approximately four hundred and twenty-three (423) acres located just south and east of the Otay Landfill and Village Two, west of the existing light industrial uses in the City of Chula Vista and north of the Otay River Valley. Homefed Village III, LLC owns the property within the proposed annexation area and the project is proposed for approximately 813 single-family units and 457 multi-family units, 7.4 acres of mixed use commercial, 7.9 acres of office space, 29.3 acres of industrial uses, parks, Community Purpose Facility land, and an elementary school site. The City Council approved the proposed annexation boundary map at the May 24, 2016 meeting. Such map has been recorded in the Office of the San Diego County Recorder, in Book 45, Page 70 of Maps of Assessment and

Community Facilities Districts as Document No. 2016-700237.

### **Proposed Special Tax**

The rate and method of apportionment of the special taxes authorized to be levied within the existing boundaries of CFD 97-2 has four categories of taxation, as follows:

- Developed Parcels (Single-Family and Multi-Family Residences) are taxed based on the square footage of the structure. Industrial and Commercial Parcels are taxed on the acreage of the parcel.
- The Final Mapped properties, which include all single family and multi-residential parcels and all industrial and commercial parcels, for which a building permit has not been issued, are taxed on acreage of the parcel.
- Property not categorized as Developed or Final Mapped Property is taxed on acreage of the parcel.
- The Exempt Category includes all publicly owned parcels and Homeowner's Association parcels.

Developed Parcels are those parcels for which a building permit has been issued. The proposed maximum special tax rate in the rate and method of apportionment was determined at the time of formation of CFD 97-2 in 1998.

### **Collection of Taxes**

At the beginning of each fiscal year the City shall determine the amount of the Special Tax Liability (budget plus reserve) of each Improvement Area. Then, the special taxes will first be levied within each of the Improvement Areas on the Developed Parcels therein to fund the Special Tax Liability for such Improvement Area. If this pool of funds is insufficient to fund the Special Tax Liability for such Improvement Area, as may be the case in the early years of development, the district will levy the special tax on the vacant land within such Improvement Area starting with Final Mapped Property. The buffer of having the vacant land covering any portion of the Special Tax Liability not funded from special taxes levied on Developed Parcels within an Improvement Area will disappear once the Improvement Area has been fully developed. If the Special Tax Liability for any fiscal year for an Improvement Area is less than the maximum special tax authorized to be levied on the Developed Parcels within such Improvement Area, the actual rate of the special taxes to be levied on such Developed Property in that specific year will be reduced accordingly.

Following is a brief discussion of some key issues regarding the "Rate and Method of Apportionment (RMA) of Special Taxes" proposed to be established for territory proposed to be annexed to Improvement Area C of CFD 97-2 (See Attachment 2 for full description of RMA):

- The Maximum Special Tax Rates increase each year by a factor equal to the annual percentage change in the San Diego Metropolitan All Urban Consumer Price Index.
- The RMA provides that the annual budget for any year may include an amount deemed necessary to maintain an adequate level of the operating reserve fund.
- The maximum special tax rates are based on the original Rate and Method of Apportionment of special taxes established for CFD 97-2 when the district was formed. If the actual square footage of

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residential development and/or the acreage of non-residential (industrial and commercial) development within Improvement Area C meets or exceeds the projections on which the special tax rates were based, the actual special tax rate necessary to be levied annually within Improvement Area C to fund the Special Tax Liability for Improvement Area C may be less than the authorized maximum special tax.

#### Approved Maximum Special Taxes

The approved maximum special tax rates for Fiscal Year 2016/2017 for Improvement Area C of CFD 97-2 are as follows:

Table 1 - Maximum Special Tax for Monitoring

<b>Special Tax Category</b>	<b>Maximum Special Tax (Monitoring)</b>
Category I - Residential (per square foot)	\$ 0.0076
Category I - Non-Residential (per acre)	\$ 123.0613
Category II - Final Map Property (per acre)	\$ 123.0613
Category III - Undeveloped Property (per acre)	\$ 79.4238

Table 2 - Maximum Special Tax for Operations & Maintenance

<b>Special Tax Category</b>	<b>Maximum Special Tax (Operations &amp; Maintenance)</b>
Category I - Residential (per square foot)	\$ 0.0119
Category I - Non-Residential (per acre)	\$ 195.3689
Category II - Final Map Property (per acre)	\$ 195.3689
Category III - Undeveloped Property (per acre)	\$ 126.0917

#### Resolutions

After the public hearing has been held regarding the annexation of Otay Ranch Village 3 to CFD No. 97-2 and Improvement Area C thereof, there are two resolutions on today's agenda, which, if adopted, will accomplish the following:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), MAKING CERTAIN DETERMINATIONS AND AUTHORIZING SUBMITTAL OF LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF CERTAIN TERRITORY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT) AND IMPROVEMENT AREA "C" THERETO - is the formal action of the City Council making certain findings and determinations pertaining to the annexation of Otay Ranch Village 3 to CFD No. 97-2, Improvement Area C, and authorizes the qualified electors of such territory to vote on the authorization to levy special taxes within such territory.

Following adoption of the above-referenced resolution, the City Clerk, acting as the designated election official, will hold a special election within the territory proposed to be annexed to CFD No. 97-2, Improvement Area C, at which time the qualified electors of such territory, being the owners of

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land within such territory, will be entitled to vote on a ballot proposition to authorize the levy of the special taxes described above within such territory. Immediately following the receipt of the ballots from the qualified electors, the City Clerk shall cause the ballots received to be canvassed. Upon completion of the canvas, the City Clerk will report the results of the election to the City Council.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), DECLARING THE RESULTS OF A SPECIAL ELECTION IN THAT TERRITORY DESIGNATED AS COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), IMPROVEMENT AREA "C," ANNEXATION NO. 10, AND ADDING SUCH TERRITORY TO SUCH IMPROVEMENT AREA - is the formal action of the City Council declaring the results of the special election and, if the levy of such special tax is approved by the qualified electors, ordering the annexation of Otay Ranch Village 3 to Improvement Area C of CFD No. 97-2.

#### **DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council and has found no property holdings within 500 feet of the boundaries of the property, which is the subject of this action. Staff is not independently aware, nor has staff been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

#### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. This action supports the goal of Economic Vitality, which includes promoting and supporting the development of balanced communities, by providing a funding source for the maintenance of preserve open space.

#### **CURRENT YEAR FISCAL IMPACT**

Developer is responsible for all costs associated with the Annexation No. 10 to CFD 97-2. The City will recover the full cost of staff time expended in district annexation, thus there will be no fiscal impact.

#### **ONGOING FISCAL IMPACT**

The on-going administration will be funded entirely by the district; therefore there is no net fiscal impact.

#### **ATTACHMENTS**

Attachment 1 Annexation Map

Attachment 2 Rate and Method of Apportionment

Staff Contact: Dave Kaplan, Transportation Engineer